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Crl.O.P.No.7791 of 2023

**Crl.O.P.No.7791 of 2023 &
Crl. M.P.No.5344 of 2023**

Reserved on 17.05.2023	Delivered on 18.05.2023
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K.KUMARESH BABU,J

The petitioners, who apprehend arrest at the hands of the respondent Police for the offences punishable under Sections 120-B, 406, 468, 471, 420 r/w 34 IPC, in Crime No.26 of 2023 seek anticipatory bail.

2. Heard Mr.A.Ramesh, learned Senior counsel appearing for the petitioners, Dr.A.Thiyagarajan, learned Senior counsel appearing for the Intervenor and Mr.M.V.Ramachandramoorthy, learned Additional Public Prosecutor appearing for the respondent.

3.The learned Senior counsel appearing for the petitioners would submit that the property measuring about 27200 sq.ft., had been sold by the first accused in favour of the defacto complainant. He would submit that the second accused had inherited an area of about 2160 sq.ft. by way of unregistered Will executed by one Mrs.Pattammal. That apart, the second accused had also been holding a larger extent of land measuring about 25000 sq ft., at Puducherry Revenue village. The second accused has settled a property measuring an extent of land about 27878 sq ft., including the



inherited property from Mrs.Pattammal in favour of his wife Saroja, who has been arrayed as first accused. The first accused sold the property measuring an extent of 27200 sq ft., in favour of the defacto complainant by way of a registered sale deed during March 2013 and that she had retained a portion of land measuring an extent of 678 sq ft. It was also submitted by the learned Senior counsel that the father of the first accused Mr.Govindasamy Mudaliar by a registered release deed, released his share in 2160 sq.ft., of land in survey No.14 in favour of the first accused. The defacto complainant had claimed that the release deed executed by Mr.Govindasamy Mudaliar in favour of the first accused is a sham and nominal document and was only created to create a cloud over the title of the property which has already been purchased by the defacto complainant. He would further submit that the District Registrar concerned on the complaint made by the defacto complainant had already held that the release deed executed in favour of the first accused by the said Govindasamy Mudaliyar is a fraudulent document. He would further submit that again the said proceedings a statutory appeal has been filed and the same is pending. He would further claim that the present petitioners have been arrayed as 3rd and 4th accused in the complaint filed by the defacto complainant and that they had no role to play either in



the alleged release deed that was executed in favour of the first accused, as they were neither executor nor witness or beneficiary under the said release deed. He would further submit that the entire complaint had been filed by the defacto complainant only to grab away the remaining 678 sq ft., of land that had been retained by the first accused. He would submit that the petitioners namely accused 3 & 4 would cooperate with the investigation and will not hamper or tamper the evidences. He would request this Court to impose any condition which would also be complied with by them.

4.Countering his argument, the learned Additional Public Prosecutor would submit that the petitioners are the beneficiaries of the transactions that had been held to be a fraudulent transaction by the District Registrar, they being the beneficiary are also liable to be prosecuted.

5.Dr.A.Thiyagarajan learned Senior counsel appearing for the intervenor would submit that the release deed that was executed by the Govindasamy Mudaliar in favour of the first accused was the brainchild of the petitioners herein only to grabaway the property of the defacto complainant, which had been sold by the mother as early as in the year 2013 is sought to be subtled by creating an interest in favour of Govindasamy Mudaliar, as if he had inherited the property measuring an extent of 2168



sq.ft., on the death of his wife Pattammal. He would further submit that under the protest of retaining a portion of the land, the petitioners are trying to interfere with the rightful possession and enjoyment of the property that the defacto complainant had purchased the property from the first accused. He would further submit that the first and second accused being the father and mother of the first petitioner and in-laws of the second petitioner are absconding and this present petition is only to hood-wink this Court in gaining an Anticipatory Bail, which would help the first and second accused.

6.The admitted fact in the present case is that the land measuring an extent of 27200 sq ft., had been sold by the first accused to the defacto complainant. It is also not disputed that the second accused had inherited the property measuring an extent of 2160 sq ft., in survey No.14 at Puduchery Revenue village from Pattammal, who is the mother of the first accused. The second accused had also executed a settlement in favour of the first accused who is his wife for an extent of 27878 sq ft. The defacto complainant had purchased an extent of 27200 sq ft. A complaint had been lodged by the defacto complainant as against the petitioners as well as accused 1 to 4.

7.A reading of the complaint would also show that the allegation by



the defacto complainant is that the sole purpose of executing a release deed dated 18.07.2016 in favour of the first accused is only to grab the property valued around a sum of Rs.5 crores in town survey No.14. I do not propose to enter upon into the factual contentions and the same are still under investigation by the appropriate investigating authority.

8.Considering the fact that already the allegations and counter allegations are all based upon the documents which have already been listed out in the FIR registered by the respondent herein, it is only the statements that have to be recorded from the respective parties and witnesses and in such circumstances, I do not find any impediment in granting anticipatory bail atleast to the petitioners, who have been arrayed as third and fourth accused.

9.Further a reading of the FIR would only show that the specific overtact as against the petitioners herein is that they are the brainchild for execution of the alleged release deed in the year 2016. Even assuming that the release deed is a valid one, the same could only be to an extent of 50% of 2160 sq ft., and not the entire extent of 27200 sq ft. This one other reason, I



am inclined to grant Anticipatory Bail to the petitioners.

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10. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate-II Pondicherry, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- each (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(a) the petitioners and the sureties shall affix their photographs and Left thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass book to ensure their identity.

(b) the petitioners shall report before the respondent police weekly once at 09.00 a.m for a period of two weeks and thereafter as and when required for interrogation.

(c) the petitioners shall not tamper with evidence or witness



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either during investigation or trial.

(d) the petitioners shall not abscond either during investigation or trial.

(e) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court themselves as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala* reported in *[(2005) AIR SCW 5560]*.

(f) If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

(g) Consequently, connected Miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No



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